

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON DIVISION

Ray Edward Wells, #933275,)	C.A. No. 8:06-517-CMC-BHH
)	
Plaintiff,)	
)	
v.)	OPINION and ORDER
)	
SCDC Medical Staff Head Nurse Ms. Derrick;)	
SCDC Commission Jon Ozmint; SCDC Warden)	
George T. Hagen; and SCDC Doctor)	
Thomas Byrne,)	
)	
Defendants.)	
)	

This matter is before the court on Plaintiff's *pro se* complaint filed pursuant to 42 U.S.C. § 1983. Plaintiff filed his complaint on February 21, 2006, alleging deliberate indifference to his medical needs.

In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 (B)(2)(d), DSC, this matter was referred to United States Magistrate Judge Bruce Howe Hendricks for pre-trial proceedings and a Report and Recommendation. On February 27, 2006, the Magistrate Judge issued a Report recommending that this matter be dismissed without issuance and service of process. The Magistrate Judge advised the Plaintiff of the procedures and requirements for filing objections to the Report and Recommendation and the serious consequences if he failed to do so. Plaintiff filed his objections to the Report on March 14, 2006.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of any portion of the Report and Recommendation of the Magistrate Judge to which

a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b). The court reviews the Report and Recommendation only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”) (citation omitted).

After reviewing the record of this matter, the applicable law, and the Report and Recommendation of the Magistrate Judge, the court agrees with the conclusion of the Magistrate Judge that this matter should be dismissed without prejudice and without issuance and service of process. Plaintiff’s objections raise no legally meritorious argument.

IT IS THEREFORE ORDERED that this case is dismissed without prejudice and without issuance or service of process. This matter shall be counted as a “strike” under 28 U.S.C. § 1915(g).

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
April 4, 2006